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| APPLICATION NO.               | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.       | CONFIRMATION NO. |
|-------------------------------|-------------|----------------------|---------------------------|------------------|
| 10/521,154                    | 01/13/2005  | Akihiro Fukasawa     | 3718-0106PUS1             | 9037             |
| 2292                          | 7590        | 05/02/2007           | EXAMINER                  |                  |
| BIRCH STEWART KOLASCH & BIRCH |             |                      | KLIMOWICZ, WILLIAM JOSEPH |                  |
| PO BOX 747                    |             |                      |                           |                  |
| FALLS CHURCH, VA 22040-0747   |             |                      | ART UNIT                  | PAPER NUMBER     |
|                               |             |                      | 2627                      |                  |
| NOTIFICATION DATE             |             | DELIVERY MODE        |                           |                  |
| 05/02/2007                    |             | ELECTRONIC           |                           |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[mailroom@bskb.com](mailto:mailroom@bskb.com)

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/521,154             | FUKASAWA, AKIHIRO   |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | William J. Klimowicz   | 2627                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 March 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
  - 4a) Of the above claim(s) 1-3,8 and 9 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 4-7 and 10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 January 2005 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of Specie III (Figure 5) in the reply filed on March 7, 2007 is acknowledged.

The Applicant states:

For the purpose of examination of the present application, Applicants elect Species III, illustrated in Fig(s). 5, without traverse.

Claims 4-7 and 10 read on the elected species.

See page 2 of the Response filed March 7, 2007. Claims 1-3, 8 and 9 are currently withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 7, 2007.

***Objection to Abstract***

The abstract of the disclosure is objected to because its length exceeds 150 words. See MPEP 608.01(b), which cites 37 CFR 1.72 (b), and states:

A brief abstract of the technical disclosure in the specification must commence on a separate sheet, preferably following the claims, under the heading "Abstract" or "Abstract of the Disclosure." The ***abstract*** in an application filed under 35 U.S.C. 111 ***may not exceed 150 words in length.*** The purpose of the abstract is to enable the United States Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure. The abstract will not be used for interpreting the scope of the claims.

Emphasis in bold italics added. Thus, the abstract must be amended so as to not exceed the 150 word limit. Correction is required.

***Drawings***

Figures 7-9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections***

Insofar as the claims can be best understood in light of the Applicant's disclosure, the following rejections, articulated in detail, are deemed *prima facie* appropriate, based on a preponderance of the evidence.

As recited **MPEP§2106:**

Office personnel are to give claims their ***broadest reasonable interpretation*** in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). ***Limitations appearing in the specification but not recited in the claim are not read into the claim.*** *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. . . . The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. . . . An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process."). [Emphasis in bold italics added].

As set forth in the **MPEP§ 706**, "the standard to be applied in all cases is the '***preponderance of the evidence***' test. In other words, ***an examiner should reject a claim if, in view of the prior art and evidence of record, it is more likely than not that the claim is unpatentable.***" Emphasis in bold italics added.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito (JP 11-339350 A).

As per claim 4, Saito (JP 11-339350 A) discloses a disc loading device comprising: a tray (3) in which a disc (D) is placed; a main chassis (2A) into which the tray (3) is loaded and from which the tray (3) is unloaded; a guide groove (3c1, 3b1) disposed parallel to a loading/unloading direction in the tray (3) or the main chassis (2A); guides (2b1) that are disposed at the main chassis (2A) or the tray (3) and engage with the guide groove (3c1, 3b1); and an elastic body (5, 6) that presses a side wall of the guide groove (3c1, 3b1) and the guides into contact at the time of loading/unloading of the tray (3) (e.g., see FIGS. 2A, 2B).

As per claim 5, wherein at the time of loading/unloading of the tray (3), a displacement amount of the elastic body (5, 6) in the vicinity of a loading start position or an unloading end position of the tray (3) is larger than a displacement amount at another portion (due to the elastic body compression, as opposed to its uncompressed state when not engaging the tray (3) - see FIGS. 2A, B).

As per claim 6, wherein the guides (3c1, 3b1) are plurally disposed in the vicinity of the loading start position or the unloading end position of the tray (3), and the elastic body (5, 6) is disposed between adjacent guides (3c1, 3b1) - see FIG. 2A.

As per claim 7, wherein the elastic body (5, 6) is plurally (on each side) disposed in the vicinity of the loading start position or the unloading end position of the tray (3), and the guides (3c1, 3b1) are disposed between adjacent elastic bodies (e.g., see FIGS. 2A, B - between 6a, 6b).

As per claim 10, wherein the elastic body (5, 6) is disposed integrally with the main chassis (2A) or the tray (3) - see FIGS. 1 and 2.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (571) 272-7577. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Thi Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Will J. Klimowicz*  
William J. Klimowicz  
Primary Examiner  
Art Unit 2627

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